

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7908 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No :

BHARTIYA KARMCHARI SANGH

Versus

UNION OF INDIA

Appearance:

MR TR MISHRA for Petitioner

SERVED BY RPAD - (N) for Respondent No. 1

M/S TRIVEDI & GUPTA for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 24/07/1999

ORAL JUDGEMENT

1. The prayer of the petitioner, which is Union of Employees, in this writ petition is for a direction to the respondent No.1 to refer the dispute to the Industrial Tribunal for adjudication on the line of the reference made in respect of Oil & Natural Gas Corporation Ltd. vide order dated 2.4.1997. Learned

Counsel for the parties have been heard and the allegations in the petition have been examined. It is hardly essential to refer to the allegations made in this writ petition. This petition can be finally disposed of with the following directions for which the learned Counsel for the parties have already agreed in the course of arguments.

2. The petition is, therefore, finally disposed of with the following directions :

- i) The petitioner Union is directed to approach the Conciliation Officer with respect to the demand of the members of the Association in the line of the allegations made in this writ petition within six weeks;
- ii) The Conciliation Officer shall submit necessary Report within six weeks from the date of hearing the parties and after taking into consideration their contentions;
- iii) If Failure Report is filed by the Conciliation Officer then the appropriate Government shall take decision for making reference within four weeks from the date of receipt of failure Report. Till such decision is taken the interim order dated 23.10.1997 passed by this Court shall remain in force and also for a period of two weeks from the date of intimation given to the petitioner;
- iv) In case the appropriate Government passes an order refusing to make reference then the interim order dated 23.10.1997 passed by this Court shall remain in force for a period of two weeks from the date of communicating the same to the petitioner;
- v) In case the present contract between the Principal Employer and the Contractor comes to an end and for any reason the Principal employer, the respondent No.2, discontinues the present contract, it will be open for the Principal employer to award fresh contract by inserting a clause that the new contractor will continue the present workmen who are members of the petitioner Union during the period the interim order exists as indicated in the forgoing portion of this order.

3. It is clarified that it will be open for the contractor to take appropriate disciplinary action against the workmen if necessity so arises according to law. No order as to costs.

sd/-

Date : July 24, 1999 (D. C. Srivastava, J.)

sas